HIGH COURT OF UTTARANCHAL AT NAINITAL

C-482 NO. 938 OF 2006

Abhaya Pratap Singh,
S/o Sri Ram Iqbal Singh,
R/o Devi Mandir Balsouir,
Now at present near Convent School,
Tariyal Chowk, Devi Road,
P.S. Kotdwar, District-Pauri Garhwal.

.....Applicant.

Vs.

1. State of Uttaranchal.
2. Kailash Chandra, S/o Mahidhar Prasad, R/o Shivpur Kotdwar, District- Pauri Garhwal.

.....Respondents.

Hon'ble Rajesh Tandon, J.

Heard Raman Kumar Shah, counsel for the applicant and A.G.A. for the State.

2. By the present application filed under Section 482 of the Code of Criminal Procedure, the applicant has prayed for quashing of the charge-sheet dated 12th October, 2006 in Case Crime No. 466 of 2006 under Section 364 I.P.C. P.S. Kotdwar, District-Pauri Garhwal as well as for staying the further proceedings.

3. Briefly stated, according to the case of the applicant, First Information Report was lodged by the respondent No.2 against the accused-applicant in Case Crime No. 466 of 2006 and the charge sheet was submitted on 12.10.2006.

4. A perusal of the FIR shows that Deepak was abducted for the payment of a ransom amount and for threatening given on the telephone. The complainant has claimed to deliver his son-Deepak.

5. Counsel for the applicant has submitted that there was an enmity between the parties and as such the applicant has been involved during the course of sta tement under Section 164 of the Code of Criminal Procedure as will appear from the statement of Deepak, whose statement has been annexed along with this application.

6. I have gone through the statement of Deepak and in my opinion, it is not a fit case for quashing the FIR.

7. Applicant apprehends that he shall be allowed to file the document in support of his defence.

8. In ***Medchl Chemicals & Pharma (P) Ltd. Vs. Biological E. Ltd. & others (2000) 3 SCC 269,*** the Apex Court has observed as under:

> *"19. Considering the factual aspect of the matter, we unhesitatingly state, however, that the issue involved in the matter under consideration is not a case in which the criminal trial should have been short-circuited. We, thus, without expressing any opinion on the merits of the case allow the appeal and set aside the impugned order of the high Court and restore the complaint. The learned trial Magistrate shall proceed*

with the complaint and dispose of the same in accordance with the law with utmost expedition. Be it clarified however that observations as above in this judgment be not taken as an expression of any opinion of ours."

9. In view of the above, trial Court shall give full opportunity to the applicant of filing the documents in support of his defence and shall also give him full opportunity in order to defend himself.

10. Subject to aforesaid observations for filing the documents in support of the case, application filed under Section 482 of the Code of Criminal Procedure is disposed of.

(Rajesh Tandon, J.)

05.12. 2006
Rathour.